

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

FAISAL G. KHALAF, Ph.D.,

Plaintiff,

v.

Case No: 2015-cv-12604

FORD MOTOR COMPANY,  
a Delaware corporation,  
BENNIE FOWLER and  
JAY ZHOU, jointly and severally,

Hon. Matthew F. Leitman

Magistrate Judge David R. Grand

Defendants.

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**Defendants' Unopposed Motion to Amend Judgment to Reflect Costs  
Under 28 U.S.C. § 1920**

Defendants Ford Motor Company (“Ford”), Bennie Fowler, and Jay Zhou, by their undersigned counsel, hereby move this Court pursuant to Fed. R. Civ. P. 54(d) and 28 U.S.C. § 1920 to amend the Judgment entered in this matter on February 17, 2021 to include the \$12,398.59 awarded to Defendants in the Clerk’s February 24, 2021 Taxed Bill of Costs. Plaintiff did not file a motion to review the taxed bill and the time to do so has now elapsed. Thus, pursuant to 28 U.S.C. § 1920, the allowed costs should be “included in the judgment or decree.” On March 9, 2021, undersigned counsel requested concurrence in the relief requested, and on March 10, 2021, Plaintiff’s counsel indicated that Plaintiff would not oppose this motion.

WHEREFORE, Defendants request that this Court amend the Judgment to reflect the \$12,398.59 award of costs in favor of Defendants.

Respectfully submitted,

KIENBAUM HARDY VIVIANO  
PELTON & FORREST, P.L.C.

By: /s/Thomas J. Davis

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Date: March 10, 2021

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**Defendants' Brief in Support of Unopposed Motion to Amend Judgment to  
Reflect Costs Under 28 U.S.C. § 1920**

### **Issue Presented**

The statute governing taxation of costs, 28 U.S.C. § 1920, states that “[a] bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree.” Here, the Clerk allowed costs of \$12,398.59 in favor of Defendants. Plaintiff did not file a motion to review that award within the time permitted, and does not oppose this motion. Should this Court amend the judgment to include the awarded costs?

**Controlling or Most Appropriate Authorities**

*Menovcik v. BASF Corp.*, 2012 WL 3853011 (E.D. Mich. Sept. 5, 2012)

28 U.S.C. § 1920

Federal Rule of Civil Procedure 54(d)(1)

## **Background**

On February 17, 2021, this Court entered Judgment in favor of Defendants. ECF No. 161. On February 24, 2021, Defendants filed a bill of costs. ECF No. 162. Later that day, the Clerk taxed costs in Defendants' favor in the amount of \$12,398.59. ECF No. 163. Plaintiff did not file a motion to review the clerk's taxation of costs within the seven days permitted by Federal Rule of Civil Procedure 54(d)(1).

## **Argument**

Rule 54(d)(1) provides that “[u]nless a federal statute, these rules, or a court order provides otherwise, costs—other than attorney’s fees—should be allowed to the prevailing party.” Allowable costs are set forth in 28 U.S.C. § 1920, which specifically provides that a “bill of costs shall be filed in the case and, upon allowance, included in the judgment or decree.”

Here, Defendants have filed a bill of costs; the Clerk taxed \$12,398.59 of the requested costs, and no timely challenge to the Clerk’s action has been filed. That award has thus been allowed, and this Court should amend the judgment to include the \$12,398.59 of costs awarded to Defendants, as called for in § 1920. The case of *Menovcik v. BASF Corp.*, No. 09-12096, 2012 WL 3853011 (E.D. Mich. Sept. 5, 2012) is directly on point in support of this request. There, the court held that the “right to a judgment that reflects costs is clearly established by 28 U.S.C. § 1920,

which provides that an allowed bill of costs should be ‘included in the judgment or decree.’” *Id.* at \*2 (quoting *Whitesell Corp. v. Whirlpool Corp.*, No. 1:05-CV-679, 2010 WL 11537526, at \*2 (W.D. Mich. June 11, 2010)). Because Defendants have received an award of costs, “an amended judgment reflecting the costs specifically allowed by the Court should be entered.” *Menovcik*, 2012 WL 3853011 at \*2.

### **Conclusion**

This Court should amend the judgment to include the costs award of \$12,398.59 in favor of Defendants.

Respectfully submitted,

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Date: March 10, 2021

### **Certificate of Service**

I hereby certify that on March 10, 2021, I electronically filed the foregoing document with the Clerk of the Court using the ECF system which will send notification of such filing to all parties of record.

/s/Thomas J. Davis

Thomas J. Davis (P78626)

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